

PLUME NUMBER AND STATION ADDRESS	OCWD'S ACCRUAL DATES AND SUPPORTING ASSERTIONS	UNDISPUTED FACTS SUPPORTING DEFENDANTS' FURTHER SUPPLEMENTAL MEMORANDUM
	<p>Responses to Defendants' Preliminary Interrogatories re Standing, May 2, 2008, at Ex. 1A attached thereto.)</p>	<p>Scheindlin.)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in at least six off-site monitoring wells at levels greater than the California Secondary MCL of 5 ppb: MW-9, MW-11, MW-102, MW-103, MW-K1, and MW-K2, as follows: (See OCWD-MTBE-001-263660 - 62; OCWD-MTBE-001-263671 - 76.)</p> <p>MTBE was detected in MW-9 at levels of 37 ppb on November 17, 1998. (OCWD-MTBE-001-263660.) MTBE was detected in MW-11 at a level of 230 ppb on May 19, 1999, 240 ppb in August 1999, 280 ppb on November 4, 1999, and 210 ppb on February 3, 2000. (MTBE-OCWD-001-263662.) MTBE was detected in MW-K1 at a level of 300 ppb on November 11, 1997. (OCWD-MTBE-001-263670.) MTBE was detected in MW-K2 at a level of 51 ppb on November 11, 1997. (OCWD-MTBE-001-263671.) MTBE was detected in MW-102 at a level of 7.8 ppb on February 7, 1996, and 17 ppb on November 17, 1998. (OCWD-MTBE-001-263674.) MTBE was detected in MW-103 at levels of 15 ppb, 13 ppb, and 19 ppb on February 7, 1996, May 13, 1996, and August 12, 1996, respectively, and 33 ppb on February 3, 2000. (OCWD-MTBE-001-263676.)</p> <p>Orange County Health Care Agency documented the migration of MTBE off-site in a September 29, 1998 letter to Thrifty Oil. (OCWD-MTBE-001-263787.)</p>
Arco #6116 17520 Brookhurst St.	30. Claims initially alleged to accrue on June 1, 2000. (Feb. 6, 2009, Letter from M. Axline to The Hon.	30. The MTBE detection in well VA-4S on which OCWD's date is based was at 1300 ppb. (Costley 2009 Decl. Ex.

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Fountain Valley	Shira Scheindlin.) Subsequently, the accrual date changed to April 3, 2001. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.) This accrual date is based on an MTBE detection in offsite monitoring well VA-4S. (<i>Id.</i> , citing OCWD-MTBE-001-242644 and OCHCA-MTBE-045859.)	1D.) Prior to May 6, 2000, MTBE was detected at this station in on-site monitoring wells from at least September 2, 1998, at concentrations as high as 43,000 ppb. (<i>Id.</i> ; Sartoris 2006 Decl. Ex. 15.)
Exxon #3738 17474 Brookhurst St. Fountain Valley	31. Claims alleged to accrue on August 4, 2000. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) The accrual date is based on an MTBE detection in production well NB-DOLD. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing Plaintiff Orange County Water District's Second Supplemental Responses to Defendants' Preliminary Interrogatories re Standing, May 2, 2008, at Ex. 1A attached thereto.)	31. MTBE was not detected in well NB-DOLD on August 4, 2000. However MTBE was allegedly detected in well NB-DOLD on August 2, 2005 at 0.04 ppb. (Costley 2009 Decl. Ex. 1D.) Prior to May 6, 2000, MTBE was detected at this station in on-site monitoring wells from at least July 5, 1996, at levels up to 26,000 ppb. (<i>Id.</i> ; Sartoris 2006 Decl. Ex. 15.) Moreover, the USTs were removed and the station closed in 1992. A Bank of America Drive Through Automated Teller Machine was constructed at the site in 1999 and remains in operation. (EXMO_3738_011825-28.)
<u>PLUME NO. 7</u> A-29	32. The District bases its accrual dates for both stations in Plume 7 (Arco #1994, Unocal #5869) on an alleged MTBE detection in production well A-29 on December 14, 2005. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing Plaintiff Orange County Water District's Second Supplemental Responses to Defendants' Preliminary Interrogatories re Standing, May 2, 2008, at Ex. 1A attached thereto.)	32. Plume 7 was previously addressed in the 2008 round of supplemental briefing, and Defendants' undisputed facts supporting their position regarding this plume can be found in their 56.1 statement submitted in that briefing at ¶¶ 43-47. In ¶¶ 43-44 therein, the District acknowledged the detections in A-29 prior to May 6, 2000 as detailed below. MTBE was not detected in well A-29 on December 14, 2005 (the District's accrual date for stations in plume 7), but instead was detected in well A-29 on October 4, 2005 by the District's litigation consultant, Friedman & Bruya, at 0.09 ppb. (Pl.'s Second

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		<p>Supp. Responses to Defs.' Preliminary Interrogatories re Standing (May 2, 2008) at Ex. 1A ("Friedman & Bruya Detections").) Since May 2000, testing by the District's laboratory was "ND" (non-detect) for MTBE on each of the 30 occasions this well was sampled. (Finsten 2009 Decl. Ex. 7 (Data for MTBE testing in well A-29.))</p> <p>MTBE was first detected in well A-29 on October 21, 1995 at 3.7 ppb, and was detected in well A-29 on seven more occasions prior to May 6, 2000, always at or above 1 ppb. (Pl.'s Second Supp. Responses to Defs.' Preliminary Interrogatories re Standing (May 2, 2008) at Ex. 1A ("Water Supply Wells").) Due to these detections, the City of Anaheim shut down well A-29 for some period of time between 1996 and 1999. (Bolin 2008 Supp. Decl. ¶ 11; Sartoris 2006 Decl. Ex. 2 at 6; Ex. 6 at 850:13-851:9.)</p>
<p>Arco #1994 100 N. Beach Blvd. Anaheim</p>	<p>33. Claims alleged to accrue on December 14, 2005. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) This date is based on an MTBE detection in production well A-29. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing Plaintiff Orange County Water District's Second Supplemental Responses to Defendants' Preliminary Interrogatories re Standing, May 2, 2008, at Ex. 1A attached thereto.)</p>	<p>33. MTBE was not detected in well A-29 on December 14, 2005. However, MTBE was detected in well A-29 on October 9, 2005 at 0.09 ppb. (Costley 2009 Decl. Ex. 1C.)</p> <p>Prior to May 6, 2000, MTBE was detected in A-29 beginning on October 12, 1995 at 3.7 ppb. <i>See</i> ¶ 32 <i>supra</i>.</p> <p>MTBE has never been detected in groundwater at this station. However, MTBE was detected in on-site soil monitoring from at least November 18, 1998. (<i>See</i> Finsten 2008 Supp. Decl. Ex 27.)</p>
<p>Unocal #5869 South State</p>	<p>34. Claims alleged to accrue on December 14, 2005. (Feb. 6,</p>	<p>34. MTBE was not detected in well A-29 on December 14, 2005. However,</p>

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College Blvd. Anaheim	2009, Letter from M. Axline to The Hon. Shira Scheindlin.) This date is based on an MTBE detection in production well A-29. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing Plaintiff Orange County Water District's Second Supplemental Responses to Defendants' Preliminary Interrogatories re Standing, May 2, 2008, at Ex. 1A attached thereto.)	<p>MTBE was detected in well A-29 on October 9, 2005 at 0.09 ppb. (Costley 2009 Decl. Ex. 1C.)</p> <p>Prior to May 6, 2000, MTBE was detected in A-29 beginning on October 12, 1995 at 3.7 ppb. <i>See</i> ¶ 32 <i>supra</i>.</p> <p>Also prior to May 6, 2000, MTBE was detected at this station in on-site monitoring wells from at least August 6, 1996, at 1,200 ppb. (OCWD-MTBE-001-028286.)</p>
PLUME NO. 8 IRWD-1 IRWD-4 IRWD-C8 IRWD-C9 SA-34	35. The District bases its accrual dates for all five stations in Plume 8 (Arco #3085, Beacon Bay Carwash, Chevron #1921, G&M Oil #24, Mobil #18-HEP) on MTBE detections in off-site monitoring wells at these stations. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.)	35. Plume 8 was previously addressed in the 2008 round of supplemental briefing, , and Defendants' undisputed facts supporting their position regarding this plume can be found in their 56.1 statement submitted in that briefing at ¶¶ 48-55.
G&M Oil #24 3301 Bristol St. Santa Ana	36. Claims alleged to accrue on April 11, 2003. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) This date is based on an MTBE detection in offsite monitoring well MW-15. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing OCWD-MTBE-001-251599.)	<p>36. The MTBE detection in well MW-15 on which OCWD's date is based was at 630 ppb. (Costley 2009 Decl. Ex. 1D.)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in on-site monitoring wells from at least September 9, 1998, at 1,015,000 ppb. (<i>Id.</i>; Sartoris Decl. Ex. 15.)</p>
Beacon Bay Car Wash 1501 W. MacArthur Blvd. Santa Ana	37. Claims initially alleged to accrue on June 25, 1996. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) Subsequently, the date of accrual was changed to January 16, 2003. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.) This accrual date is based on a detection in offsite monitoring well MW-9. (<i>Id.</i> , citing SARWQCB-MTBE-026495.)	<p>37. The MTBE detection in well MW-9 on which OCWD's date is based was at 18 ppb. (Costley 2009 Decl. Ex. 1A.)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in at least two offsite monitoring wells at levels greater than the California Secondary MCL: MW-7 and MW-8, as follows:</p> <p>MTBE was first detected in well MW-7 on September 26, 1996 at 23 ppb,</p>

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		<p>and was detected in that monitoring well above the MCL during all but one quarterly monitoring event through May 6, 2000. (SARWQCB-MTBE-026490-91.) MTBE was first detected in MW-8 on June 25, 1996 at 7,200 ppb (the District's accrual date for this station in its February 6, 2009 letter) and was detected in that monitoring well during every quarterly monitoring event through May 6, 2000 with detections as high as 34,000 ppb. (See SARWQCB-MTBE-026492-93.)</p>
<p>Mobil #18-HEP 2921 S. Bristol St. Santa Ana</p>	<p>38. Claims initially alleged to accrue on February 19, 2001. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) Subsequently, the date of accrual was changed to September 19, 2002. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.) This accrual date is based on a detection in offsite monitoring well MW-14. (<i>Id.</i>, citing SARWQCB-MTBE-014211.)</p>	<p>38. The MTBE detection in well MW-14 on which OCWD's date is based was at 101 ppb. (Costley 2009 Decl. Ex. 1D.)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in on-site monitoring wells from August 5, 1999, at 67,000 ppb, and at 100,000 ppb on February 7, 2000. (OCWD-MTBE-001-252690.)</p> <p>This site received a No Further Action letter on March 16, 2007 (EXMO_18HEP_013933.) OCWD was aware of the agency's intent to grant closure, and even received the letter from the agency notifying of the proposed closure before it occurred, but admittedly never protested or raised any objection whatsoever to site closure (Bolin Dep. 2093:23-2095:13, 2098:12-21; OCWD-MTBE-001-170744.) In 1998, USTs were removed and the site was an unpaved vacant lot from 1998-2003 (EXMO_18HEP_013936.) The District admitted that the tanks were removed in 1998, and indicated there was no evidence of a release of gasoline after that time. (Bolin Dep. 2111:21-2112:10.) The site was</p>

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		developed as a 76-branded station in 2004, after MTBE was ordered out of gasoline in California. (<i>See</i> 13 C.C.R. § 2261; OCWD-MTBE-001-252697.)
Chevron #9-1921 3801 S. Bristol St. Santa Ana	39. Claims initially alleged to accrue on September 4, 2001. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) Subsequently, the date of accrual was changed to January 2, 2007. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.) This date is based on a TBA detection in offsite monitoring well MW-13. (<i>Id.</i> , citing SARWQCB-MTBE-004587.)	39. The TBA detection in well MW-13 on which OCWD's date is based was at 41 ppb. (Costley 2009 Decl. Ex. 1A.) Prior to May 6, 2000, MTBE was detected at this station in at least four offsite monitoring wells at levels greater than the California Secondary MCL: MW-10, MW-11, MW-14, and MW-16 as follows: MTBE was first detected in MW-10 on July 23, 1996 at 11 ppb, and in nine subsequent testing events through May 6, 2000, with a peak detection level of 40 ppb. (SARWQCB-MTBE-004582-83.) MTBE was detected at well MW-11 on April 17, 2000 at 178 ppb (SARWQCB-MTBE-004584), and at MW-16 on June 2, 1999, at 36 ppb (SARWQCB-MTBE-004590). MTBE was detected at MW-14 beginning on July 23, 1996 at 300 ppb, and in fourteen subsequent testing events, with a peak detection of 3,460 ppb. (SARWQCB-MTBE-004587-88.)
Arco #3085 3361 S. Bristol St. Santa Ana	40. Claims initially alleged to accrue on February 11, 2003. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) Subsequently, the date of accrual was changed to October 2, 2001. (Mar. 13, 2009, Letter from M. Axline to M. Heartney.) This accrual date is based on an MTBE detection in offsite monitoring well MW-5. (<i>Id.</i> , citing SARWQCB-MTBE-000074.)	40. The MTBE detection in well MW-5 on which OCWD's date is based was at 170 ppb. (Costley 2009 Decl. Ex. 1A.) Prior to May 6, 2000, MTBE was detected at this station in at least two offsite monitoring wells at levels greater than the California Secondary MCL: MW-3 and MW-4 as follows: MTBE was first detected in well MW-3 at a level of 38 ppb on June 12, 1998, and in all eight subsequent testing events prior to May 6, 2000, including

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		<p>at a level of 2,200 ppb on April 6, 2000. (OCWD-MTBE-001-249434.) MTBE was detected in well MW-4 at a level of 80 ppb on June 12, 1998, and in all eight subsequent testing events prior to May 6, 2000. (OCWD-MTBE-001-249435 - OCWD-MTBE-001-249436.)</p>
<p><u>PLUME NO. 9</u> HB-1 HB-13 HB-14 HB-7</p>	<p>41. The District bases its accrual dates for five stations in Plume 9 (Chevron #9-5401, Huntington Beach Arco, Thrifty #368, Westminster Shell, and USA Gasoline #141) on alleged MTBE detections in production well HB-13 on July 2, 2001, August 9, 2001, and January 18, 2005. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing Plaintiff Orange County Water District's Second Supplemental Responses to Defendants' Preliminary Interrogatories re Standing, May 2, 2008, at Ex. 1A attached thereto.) The District bases its accrual dates for the remaining three stations in Plume 9 (Shell #6502, Unocal #5123, Unocal #5226) on detections in off-site monitoring wells at these stations.</p>	<p>41. Plume 9 was previously addressed in the 2008 round of supplemental briefing, and Defendants' undisputed facts supporting their position regarding this plume can be found in their 56.1 statement submitted in that briefing at ¶¶ 56-66. In ¶ 57 therein, the District claimed that "MTBE has not yet been detected in" any production wells listed in plume 9. (Pl.'s 2008 Supp. L.R. 56.1 Statement ¶ 57, citing Bolin 2008 Supp. Decl. ¶ 13.)</p> <p>Subsequently the District's employee and designated 30(b)(6) witness David Bolin claimed that an entry in the District's Laboratory Information Management System ("LIMS") database constituted a "first detection" of MTBE in well HB-13 on January 18, 2005, the District's accrual date for several stations in plume 9. (Bolin Dep. 254:16-256:8, Ex. 14; <i>Id.</i> 392:13-16.) Mr. Bolin interpreted an entry on that date of 0.17 ppb under the heading "Numeric Result" in the LIMS database as an MTBE detection in well HB-13, even though the LIMS database reports this sampling event as "ND" (non-detect) (Bolin Dep. 964:19-965:15, Ex. 49), and the sampling was reported to the well owner and general public as "non-detect." (Bolin Dep. 257:5-258:18; 373:19-378:16, Ex. 18.) Bolin acknowledged that the LIMS database is maintained by the District's</p>

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		<p>laboratory, that he does not have "access to the LIMS system" and is not familiar with the reporting protocols used for the database, and that he did not consult the District's laboratory in interpreting this entry as an MTBE "detection." (<i>Id.</i> 392:22-23; 257:5-260:7; 983:20-985:7; 997:19-998:8.)</p> <p>Recently, the District's laboratory director, Steven Fitzsimmons, confirmed that the January 18, 2005 sampling was not a "first time hit" of MTBE for well HB-13. (Finsten 2009 Decl. Ex. 12 (Deposition of Steve Fitzsimmons (rough) 59:24-60:1, 62:15-63:18, 65:2-5).) The entry cited by Mr. Bolin represents "raw data" from the lab's instruments, and did not satisfy requirements for data to be reported. (<i>Id.</i> 48:12-49:12, Ex. 20; 54:12-18; 55:12-14.)</p>
Chevron #9-5401 5992 Westminster Ave. Westminster	42. Claims alleged to accrue on July 2, 2001. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) The accrual date is based on an alleged MTBE detection in production well HB-13. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing Plaintiff Orange County Water District's Second Supplemental Responses to Defendants' Preliminary Interrogatories re Standing, May 2, 2008, at Ex. 1A attached thereto.)	<p>42. MTBE was not detected in well HB-13 on the District's purported date of accrual. (Costley 2009 Decl. Ex. 1D; <i>see also</i> ¶ 41 <i>supra</i>.) HB-13 was not tested for MTBE until January 2002. (OCWD-MTBE-001-188803; OCWD-MTBE-001-188808.)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in on-site monitoring wells from at least June 13, 1997, at 65,000 ppb. (Costley 2009 Decl. Ex. 1D.)</p>
Unocal #5123 14972 Springdale St. Huntington Beach	43. Claims initially alleged to accrue on November 11, 2002. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) Subsequently, the date of accrual was changed to May 6, 2003. (Mar. 13, 2009, Letter from M.	<p>43. The MTBE detection in well MW-15 on which OCWD's date is based was at 15 ppb. (Costley 2009 Decl. Ex. 1A.)</p> <p>Prior to May 6, 2000, MTBE was detected at this station in at least three offsite monitoring wells at levels</p>

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	<p>Axline to M. Heartney.) This accrual date is based on an MTBE detection in offsite monitoring well MW-15. (<i>Id.</i>, citing OCWD-MTBE-001-184549 and OCHCA-MTBE-017430.)</p>	<p>greater than the California Secondary MCL: MW-4, MW-14, and MW-17 as follows:</p> <p>MTBE was detected in MW-4 on January 28, 1997 at a level of 16 ppb. (OCWD-MTBE-001-184537.) MTBE was detected in MW-14 on November 25, 1996, and in a subsequent testing event prior to May 6, 2000, peaking at 9 ppb. (OCWD-MTBE-001-184547.) MTBE was detected in MW-17 on February 29, 1996 at 910 ppb, and in seven subsequent testing events through May 6, 2000. (OCWD-MTBE-001-184550.)</p>
<p>Shell #6502 6502 Bolsa Ave. Huntington Beach</p>	<p>44. Claims alleged to accrue on September 6, 2000. (Feb. 6, 2009, Letter from M. Axline to The Hon. Shira Scheindlin.) This date is based on an MTBE detection in offsite monitoring well B-46. (Mar. 13, 2009, Letter from M. Axline to M. Heartney, citing OCWD-MTBE-001-183222.)</p>	<p>44. MTBE was not detected in monitoring well "B-46" on the District's purported date of accrual. However MTBE was detected in this monitoring well on June 6, 2000, at 10 ppb. (Costley 2009 Decl. Ex. 1A.) MTBE was not again detected in B-46 above the California Secondary MCL until November 16, 2005 at 5.7 ppb.</p> <p>Prior to May 6, 2000, MTBE was detected at this station in at least four off-site monitoring wells at levels greater than the California Secondary MCL: B-7, B-8, B-11, and B-21, as follows:</p> <p>MTBE was detected in B-7 at a level of 1,300 ppb on December 13, 1996, and in all subsequent sampling events prior to May 6, 2000, including at a level of 4,100 ppb on December 1, 1997. (OCWD-MTBE-001-183201-02.) MTBE was detected in well B-8 at a level of 89 ppb on December 13, 1996, and in nine of the eleven subsequent sampling events prior to May 6, 2000. (OCWD-MTBE-001-183203.) MTBE was detected in well B-11 at a level of</p>